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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,499	10/29/2003	Kenneth P. Richied	100041-41185	5744
7590	07/23/2004		EXAMINER	
Mark P. Levy, Esq. Thompson Hine LLP 2000 Courthouse Plaza NE 10 W. Second Street Dayton, OH 45402-1758				CARTER, MONICA SMITH
		ART UNIT		PAPER NUMBER
		3722		
DATE MAILED: 07/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/696,499	RICHIED, KENNETH P.	
	Examiner	Art Unit	
	Monica S. Carter	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 October 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 22 is/are allowed.
 6) Claim(s) 1-6,11,12,16-21 and 23-26 is/are rejected.
 7) Claim(s) 7-10,13-15 and 27 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/10/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 11, 12, 16-21 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Aaldenberg et al. (6,332,285).

Aaldenberg et al. disclose a plastic tab (12) for attachment to an organizer medium (to inherently include a divider having a generally flat body portion, see col. 5, lines 20-31), the tab coupled to and slidable along an outer edge of the body portion, the tab being manually slidable along the outer edge such that a user can slide the tab to a desired location and release the tab whereupon the tab interacts with the body portion such that the tab is generally locked in place relative to the body portion without requiring any further manual manipulation (see col. 6, lines 12-67).

Regarding claim 2, see the above rejections.

Regarding claim 3, the tab includes a label portion (see col. 5, lines 33-39) shaped and located to receive a label.

Regarding claim 4, Aaldenberg et al. disclose the organizer being generally rectangular in top view (see figure 4).

Regarding claim 6, the tab fits over the outer edge (as seen in figure 4).

Regarding claim 11, the tab includes a channel (30) shaped to fit over an attachment edge of the organizer medium (see figure 2).

Regarding claim 12, the channel is generally defined by a pair of generally parallel walls oriented generally parallel with the organizer medium (see figure 4).

Regarding claim 16, the tab protrudes generally outwardly from the organizer medium (see figure 4).

Regarding claim 17, see the above rejections to claim 1.

Regarding claims 18 and 19, the force required to move the tab from the locked position to the unlocked position is greater than the force required to slide the tab along the medium when the tab is in the unlocked position (see col. 27-41).

Regarding claim 20, the tab releasably grips the attachment edge (see col. 7, lines 1-10).

Regarding claim 21, Aaldenberg et al. disclose the divider as set forth in the above rejections.

Regarding claims 23-26, Aaldenberg et al. inherently disclose the method for manipulating a tab divider as set forth in the above rejections.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aaldenberg et al. in view of Owen et al. (6,099,189).

Aaldenberg et al. disclose the claimed invention except for explicitly disclosing the body portion including a set of attachment holes located adjacent to an inner edge located generally opposite the outer edge.

Owen et al. disclose an index divider having attachment holes (276) located adjacent to an inner edge (162) located generally opposite the outer edge (112) having a tab (108). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Aaldenberg's invention to include attachment holes located opposite the outer edge, as taught by Owen et al., to enable the divider to be received in a notebook binder.

Allowable Subject Matter

5. Claim 22 is allowed.

6. Claims 7-10, 13-15 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Slattery et al. disclose index tab systems.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (703) 305-0305. The examiner can normally be reached on Monday-Thursday (6:30 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 21, 2004

Monica S. Carter
MONICA S. CARTER
PRIMARY EXAMINER